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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/334,671	06/17/1999	HENRI M. ROUGEOT	462-USA	5592

7590 05/14/2004

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

09/334,671

Applicant(s)

ROUGEOT ET AL.

Examiner

Shun Lee

Art Unit

2878

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 26 March 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☒ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☒ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

It has been noted that applicant indicates that a declaration under 37 CFR 1.132 was filed on 28 January 2004. The declaration under 37 CFR 1.132 filed 28 January 2004 is insufficient to overcome the rejection of claims 1-5, 14, and 20 based upon Morton in view of Perez-Mendez and Schiebel et al. applied under 35 U.S.C. 103 as set forth in the last Office action because: it refers only to the invention and not to the claims and it is also untimely. It refer(s) only to the system described in the above referenced application and not to the individual claims of the application. Thus, there is no showing that the objective evidence of nonobviousness is commensurate in scope with the claims. See MPEP § 716. Further it should be noted that affidavits and declarations submitted under 37 CFR 1.132 and other evidence traversing rejections are considered timely if submitted after final rejection and submitted with a satisfactory showing under 37 CFR 1.116(b) or 37 CFR 1.195.


CONSTANTINE HANNAHER
PRIMARY EXAMINER
GROUP ART UNIT 2878